

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

BRYAN ANTHONY REO,

Plaintiff,

v.

MARTIN LINDSTEDT,

Defendant.

Case No. 1:19-CV-02103-SO

Hon. Solomon Oliver, Jr.

Mag. Jonathan D. Greenberg

REO LAW, LLC

Bryan Anthony Reo (#0097470)

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Pro se Plaintiff

MARTIN LINDSTEDT

338 Rabbit Track Road

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Pro se Defendant

PLAINTIFF BRYAN ANTHONY REO'S
MOTION FOR PRE-JUDGMENT INTEREST

NOW COMES Bryan Anthony Reo ("Plaintiff"), *pro se*, and hereby propounds upon Martin Lindstedt ("Defendant") and this Honorable Court Plaintiff Bryan Anthony Reo's Motion for Pre-Judgment Interest.

On or about September 8, 2018, Defendant began to libel Plaintiff with statements that gave rise to the instant action.

On or about August 12, 2019, Plaintiff filed against Defendant Plaintiff's Complaint [which Defendant caused to be removed to this Court via filing a Notice of Removal on September

12, 2019], which included Count I (Defamation), Count II (Invasion of Privacy – False Light), Count III (Intentional Infliction of Emotional Distress), and Count IV (Permanent Injunction). (ECF No. 1-1, PageID. ## 13-18).

On January 24, 2021, Plaintiff conveyed to Defendant the offer to settle all of Plaintiff's claims in the instant action against Defendant in consideration for Defendant agreeing to having a consent judgment entered against him in the amount of \$200,000.00 dollars. Defendant never responded, never made a counter-offer, and never attempted to even have a discussion with Plaintiff about the offer or the possibility of settlement. This settlement offer was made after the filing of Plaintiff's Motion for Summary Judgment and after the Court granted that motion as to liability. This settlement communication is attached as Exhibit 1.

On April 23, 2021, this Court entered judgment in favor of Plaintiff in the amount of \$1,000,000.00 dollars.

Plaintiff now respectfully moves this Court for pre-judgment interest at the statutory rate of 0.42% per month from the date of the tortious conduct, specifically September 8, 2018. Based on 31.9 months at 0.42% per month, Plaintiff would be entitled to \$133,980.00 in pre-judgment interest.

As this case was removed from Lake County Court of Common Pleas on the basis of diversity jurisdiction, Ohio state law would govern the application of pre-judgment interest.

Kalain v Smith, 25 Ohio St.3d 157, 159, 495 N.E.2d 572 (1986) and *Moskovitz v. Mt. Sinai Med. Ctr.* (1994), 69 Ohio St.3d 638 provide the most significant precedential authority for the granting of pre-judgment interest in Ohio.

“...[T]o award prejudgment interest, the court must find that the party required to pay the judgment failed to make a good faith effort to settle and, fourth, the court must find that the party to whom the judgment is to be paid did not fail to make a good faith effort to settle the case. R.C. 1343.03(C). The statute uses the word 'shall.' Therefore, if a party meets the four requirements of the statute, the decision to allow or not allow prejudgment interest is not discretionary. What is discretionary with the trial court is the determination of lack of good faith.” *Moskovitz*. at 658.

The four factors were set forth in *Kalain*: “A party has not ‘failed to make a good faith effort to settle’ under R.C. 1343.03(C) if he has (1) fully cooperated in discovery proceedings, (2) rationally evaluated his risks and potential liability, (3) not attempted to unnecessarily delay any of the proceedings, and (4) made a good faith monetary settlement offer or responded in good faith to an offer from the other party.” *Kalain* at 159.

In the instant action, Defendant never cooperated in discovery proceedings, let alone “fully cooperate” in the same. Indeed, Defendant did not even participate in discovery. Defendant clearly did not rationally evaluate his risks and potential liability. Defendant caused extreme and unnecessary delays, including but not limited to the delay Defendant caused by seeking a discovery extension, promising to cooperate and participate with discovery and respond to outstanding

discovery, and then proceeding not to respond. Finally, Defendant never made any offer of monetary settlement and did not respond to Plaintiff's good faith attempt to resolve the case.

Plaintiff prayerfully requests that the Court award pre-judgment interest in favor of Plaintiff against Defendant in the amount of \$133,980.00 dollars. Plaintiff also respectfully prays that this award be reduced to a judgment per Fed. R. Civ. P. 58(a).

Respectfully submitted,

REO LAW, LLC

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Attorney and Plaintiff Pro Se

Dated: May 4, 2021

CERTIFICATE OF SERVICE

I, Bryan Anthony Reo, affirm that I am a party to the above-captioned civil action, and on May 4, 2021, I served a true and accurate copy the foregoing document upon Martin Lindstedt, 338 Rabbit Track Road, Granby, MO 64844, by placing the same in a First Class postage-prepaid, properly addressed, and sealed envelope and in the United States Mail located in City of Mentor, Lake County, State of Ohio.

I have also electronically filed the foregoing document which should serve notice of the filing of the same upon each party who has appeared through counsel, via the court's electronic filing notification system.

/s/ Bryan Anthony Reo
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Dated: May 4, 2021